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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,639	06/15/2001	Mark Mitchell Kornfein	RD-29,249	2225

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GLOBAL RESEARCH
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NISKAYUNA, NY 12309

EXAMINER

DASS, HARISH T

ART UNIT	PAPER NUMBER
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3693

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/882,639

Applicant(s)

KORNFEIN ET AL.

Examiner

Harish T. Dass

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's arguments are responded in response to the claims, accordingly.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Particularly, the limitations "issue" and "risk" are not defined in original specification and Examiner has interpreted "issue" and "risk" in their broadest reasonable meanings and has applied to the following rejections.

Note: This rejection will be removed when applicant provides and points out (page number and lines), where in original specification, the definition for "issue" and "risk" are disclosed.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1, 3-9, 11-16, 18-24, 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Limousin et al (hereinafter Limousin – US 6938242) in view of Higgins et al. (hereinafter Higgins – US 6,397,202).

Re. Claim 1, Limousin discloses creating (developing) a plurality of issues [claim 1 lines 3-7; col. 1 lines 16-29 -- see the issues to be resolved such as construct a new building or retrofit the existing, resolve the permit issue, Q/A milestone dates, etc] and, using a globally-accessible system [col. 5 lines 16-33]; and

monitoring and tracking [Figure 9, 16; col. 10 lines 53-58] the plurality of issues via the globally-accessible system using a plurality of color-coded (coded) visual displays graphically indicating favorable or unfavorable process progress over time [Figures 9, 16; C3 L65 to C4 L9; col. 8 lines 23-27; C10 L31-L40 -- color-coded same as coded, the Gantt chart (visual aid for monitoring and tracking) of Figures 9 and 16 can have color attributes, for example, diamond in figures 9 and 16 represents completion date can have color green which is visible on screen or printed by color printer; task chart, figure 9, shows actual date, if the actual date is ahead of or behind, col. 1 lines 44-46, it is obvious that a completion of a task or issue ahead of time or behind has impact on other issues or not (favorable or not)].

Limousin does not explicitly disclose project risks. However, Higgins discloses a method that is used to project a plurality of risk levels that may develop during the course of a large development project [Figures 2-3; C L14-19, L56-L59; C2 L66 to C3 L10 (see problems=issues); C3 L62-L64; C6 L63 to C7 L27 (see rule-based module);

also see – Abstract and col. 6 lines 2-8 where the risk levels are objectively quantified and the project risk has reached a max. probability of failure] to generate risk level and composite risk levels to identify to evaluate the project and if necessary make decisions to mitigate risk or make changes to project. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Limousin and include project risk factors, as disclosed by Higgins, to provide a project development system which includes identifying and monitoring risks arising during development of a project.

Re. Claims 3-4, Limousin discloses wherein monitoring and tracking the plurality of issues using a plurality of color-coded visual displays further comprises graphically highlighting process management roadblocks (see permit approval) and wherein monitoring and tracking the plurality of issues using a plurality of color-coded visual displays further comprises graphically highlighting exception status (expected first use of the medical system) [Fig. 9-11; C9 L62 to C10 L40; C11 L1-L25 – see figure 11 includes list of tasks which can be edited and lists more item (#270)]. Limousin does not explicitly disclose project risks. However, Higgins discloses a method that is used to project a plurality of risk levels that may develop during the course of a large development project [Figures 2-3; C L14-19, L56-L59; C2 L66 to C3 L10 (see problems=issues); C3 L62-L64; C6 L63 to C7 L27 (see rule-based module)] to generate risk level and composite risk levels to identify to evaluate the project and if necessary make decisions to mitigate risk or make changes to project. It would have been obvious

at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Limousin and include project risk factors, as disclosed by Higgins, to provide a project development system which includes identifying and monitoring risks arising during development of a project.

Re. Claims 5-7, Limousin discloses wherein the globally-accessible system comprises a globally-distributed computer network [Figure 1; C2 L41-L45; C2 L63-67; C3 L44-L47; C3 L65 to C4 L9; C5 L16-L33 – LAN and WAN are well known communication networks].

Re. Claim 8, Limousin discloses globally-accessible system (Internet) may be accessed by a plurality of remote users simultaneously [Figure 1; C5 L17-L33].

Re. Claim 9, Limousin discloses creating a plurality of issues [claim 1 lines 3-7; col. 1 lines 16-29 -- see the issues to be resolved such as construct a new building or retrofit the existing, resolve the permit issue, Q/A milestone dates, etc] and, using a globally-accessible system [col. 5 lines 16-33] and [Figures 1, 3-5, 9, 11C1 L5-L56; C2 L10-36; C3 L65 to C4 L9];

monitoring and tracking [Figure 9, 16; col. 10 lines 53-58] the plurality of issues via the globally-accessible system using a plurality of color-coded visual displays graphically indicating favorable or unfavorable process progress over time [Figure 16; C3 L65 to C4 L9; C10 L31-L40 and see claim 1 above]; and

wherein the globally-accessible system (Internet) may be accessed by a plurality of remote users simultaneously [Figure 1; C5 L17-L33].

Limousin does not explicitly disclose project risks. However, Higgins discloses a method that is used to project a plurality of risk levels that may develop during the course of a large development project [Figures 2-3; C L14-19, L56-L59; C2 L66 to C3 L10 (see problems=issues); C3 L62-L64; C6 L63 to C7 L27 (see rule-based module); see claim 1 above] to generate risk level and composite risk levels to identify to evaluate the project and if necessary make decisions to mitigate risk or make changes to project. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Limousin and include project risk factors, as disclosed by Higgins, to provide a project development system which includes identifying and monitoring risks arising during development of a project.

Re. Claims 11-12, claims 11-12 are substantially same as claim 3-4, therefore claims 11-12 are rejected with same rational as claims 3-4.

Re. Claims 13-15, claims 13-15 are substantially same as claim 5-7, therefore claims 13-15 are rejected with same rational as claims 5-7.

Re. Claim 16, Limousin discloses an issue management module (model installation plan) operable for creating, storing, and graphically displaying the status of a plurality of

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issues [C2 L10-L23; C6 L17-L49; C1 L5-L56; C2 L10-36; C3 L65 to C4 L9; see claim 1 above];

a module operable for creating, storing, and graphically displaying the status of a plurality of tasks; a plurality of color-coded visual displays for graphically displaying the status of the plurality of issues and *risks*; a processor operable for manipulating information related to the plurality of issues [C2 L10-L23; C3 L65 to C4 L9; C10 L31-L40; see claim 1 above]; and

a communications network operable for communicating information related to the plurality of issues to and from a plurality of remote users [C2 L41-L45; C2 L63-67; C3 L44-L47; C3 L65 to C4 L9; C5 L16-L33; see claim 1 above].

Limousin does not explicitly disclose a *risk* management and *risks*. However, Higgins discloses a method that is used to project a plurality of risk levels that may develop during the course of a large development project [Figures 2-3; C L14-19, L56-L59; C2 L66 to C3 L10 (see problems=issues); C3 L62-L64; C6 L63 to C7 L27 (see rule-based module); see claim 1 above] to generate risk level and composite risk levels to identify to evaluate the project and if necessary make decisions to mitigate risk or make changes to project. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Limousin and include project risk factors, as disclosed by Higgins, to provide a project development system which includes identifying and monitoring risks arising during development of a project.

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Re. Claims 18-19, claims 18-19 are substantially same as claim 3-4, therefore claims 18-19 are rejected with same rational as claims 3-4.

Re. Claims 20-22, claims 20-22 are substantially same as claim 5-7, therefore claims 20-22 are rejected with same rational as claims 5-7.

Re. Claim 23, claim 23 is substantially same as claim 8, therefore claim 23 is rejected with same rational as claim 8.

Re. Claim 24, Limousin discloses an issue management module operable for creating, storing, and graphically displaying the status of a plurality of issues [C2 L10-L23; C6 L17-L49; C1 L5-L56; C2 L10-36; C3 L65 to C4 L9; see claim 1 above];

a module operable for creating, storing, and graphically displaying the status of a plurality of tasks; a plurality of color-coded visual displays for graphically displaying the status of the plurality of issues; a processor operable for manipulating information related to the plurality of issues [C2 L10-L23; C3 L65 to C4 L9; C10 L31-L40; see claim 1 above]; and

a communications network operable for communicating information related to the plurality of issues to and from a plurality of remote users simultaneously [C2 L41-L45; C2 L63-67; C3 L44-L47; C3 L65 to C4 L9; C5 L16-L33].

Limousin does not explicitly disclose a **risk** management and **risks**. However, Higgins discloses a method that is used to project a plurality of risk levels that may

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develop during the course of a large development project [Figures 2-3; C L14-19, L56-L59; C2 L66 to C3 L10 (see problems=issues); C3 L62-L64; C6 L63 to C7 L27 (see rule-based module); see claim 1 above] to generate risk level and composite risk levels to identify to evaluate the project and if necessary make decisions to mitigate risk or make changes to project. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Limousin and include project risk factors, as disclosed by Higgins, to provide a project development system which includes identifying and monitoring risks arising during development of a project.

Re. Claims 26-27, claims 26-27 are substantially same as claim 3-4, therefore claims 26-27 are rejected with same rational as claims 3-4.

Re. Claims 28-30, claims 28-30 are substantially same as claim 5-7, therefore claims 28-30 are rejected with same rational as claims 5-7.

Claims 2, 10, 17 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Limousin and Higgins as applied to claims 1, 9, 16 and 24 above, and further in view of Martin et al, March 1987 "A Project Accountability Chart (PAC)", Journal of Systems Management (hereinafter Martin).

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Re. Claim 2, Limousin discloses wherein monitoring and tracking the plurality of issues using a plurality of color-coded visual displays. Limousin or Higgins does not explicitly disclose graphically representing a *risk* probability number (RPN) and risks. However, Martin disclose this feature [see entire document, pages 6-9, particularly Exhibits, pages 6, page 7 col. 2 # 3; page 8 col. 2 – see artistic, 25% activity completion] to provide a clear statement for critically path estimates and accomplishment. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the disclosure of Limousin, Higgins and Martin and include displaying *risk* number to display a clear visual management chart with probability of accomplishments.

Re. Claim 10, claim 10 is substantially same as claim 2, therefore claim 10 is rejected with same rational as claim 2.

Re. Claim 17, claim 17 is substantially same as claim 2, therefore claim 17 is rejected with same rational as claim 2.

Re. Claim 25, claim 25 is substantially same as claim 2, therefore claim 25 is rejected with same rational as claim 2.

Claims 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Limousin and Higgins as applied to claims 1 and 16 above, and further in view of

Underwood (US 6,704,873).

Re. Claims 31-33, Limousin discloses wherein the globally accessible system enables searching of the plurality of issues among one or a plurality of projects, and wherein the globally accessible system enables identification of a project based upon at least one of the plurality of issues [see claim 1], and further, Higgins discloses a project risk levels [see claim 1] to generate risk level and composite risk levels to identify to evaluate the project and if necessary make decisions to mitigate risk or make changes to project. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Limousin and include project risk factors, as disclosed by Higgins, to provide a project development system which includes identifying and monitoring risks arising during development of a project. Limousin or Higgins does not explicitly disclose meta-data. However, Underwood discloses this feature [col. 10 line 25 to col. 11 line 5; col. 44 lines 20-40; col. 46 lines 20-25; col. 74 lines 443-65] to use an Event Reference meta-data database table to maintain information about the types of events in an application and the policy for dealing with them.

Response to Arguments

Applicant's arguments filed 06/05/2006 have been fully considered but they are not persuasive. Because:

1. Applicant's arguments are responded in response to the above claims accordingly (see rejection of claims above under USC 103).
2. In response to applicant's argument that Limousin relates to planning equipment installation .." and "Higgins appears to relate to quantification of risks or risk levels that may arise on a project as well as overall project risk" are nonanalogous arts, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, planning to install a medical equipment is a project which needs planning, issues to be resolved and milestone to be met (Limousin) and monitoring risk arising during a development of large projects.
3. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, to generate risk level and composite risk levels to identify to evaluate the project and if necessary make decisions to mitigate risk or make changes to project [col. 1 lines 56-59; col. 5 lines 59 to col. 6 line 8].

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harish T. Dass whose telephone number is 571-272-6793. The examiner can normally be reached on 8:00 AM to 4:50 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Harish T Dass
Examiner
Art Unit 3693

08/03/2006


ELLA COLBERT
PRIMARY EXAMINER